UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1991/SR.22
24 March 1992

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixth session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 December 1991, at 10 a.m.

Chairman: Mr. ALSTON

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GE.91-18943/9186a

The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Spain (E/1990/7/Add.3, E/C.12/WG/1991/CRP.7 and E/C.12/1991/WP.5) (continued)

1. Mrs. BONOAN DANDAN, introducing the Committee's draft concluding observations (E/C.12/1991/WP.5) on the second periodic report of Spain, said that the following amendments should be made to the text: in paragraph 1, several members of the Committee had requested the deletion of the last sentence since States parties were not required to provide written replies; in the first sentence of paragraph 2 "Government of" should be deleted; in paragraph 3 (a), "for religious" should be replaced by "in"; finally, paragraph 5 (b) should be reworded as follows: "The question of discrimination in the matter of intellectual property which is apparent in the provisions of articles 145 to 147 of the Copyright Law of 1989."

2. Mrs. JIMENEZ BUTRAGUEÑO said that, while she did not wish to open a substantive discussion, she hoped that, in its concluding observations, the Committee would stress the fact that Spain had provided written replies to the written questions which had been addressed to it through the pre-sessional working group (E/C.12/WG/1991/CRP.7).

3. Mr. MRATCHKOV, Rapporteur, supported the draft concluding observations introduced by Mrs. Bonoan Dandan but suggested three amendments. First, in order to emphasize the fact that Spain had replied to all the questions raised by the working group and by members of the Committee, the words in the first sentence of paragraph 1: "the list of issues" should be replaced by "all the issues raised by the Committee". Second, the sentence "The Committee, however, found the written report unsatisfactory and disappointing." should be replaced by "The Committee, however, found the written report too short and disappointing.". Third, in the first sentence of paragraph 4, the words "the following issues" should be deleted and the words "with a view to eliminating:" should be inserted at the end of the sentence.

4. Mr. NENEMAN said that he was not sure that there would be any point in stating that Spain had furnished written replies to the written questions which had been put to it by the working group as there was no obligation on States parties to do so. To include such a statement in the concluding observations of the Committee might lead to a misunderstanding and give States parties the impression that there was such an obligation. He suggested that there should merely be a reference to the Committee's appreciation.

5. Mr. MARCHAN ROMERO proposed that, in paragraph 4, the word "satisfy" should be replaced by "respect".

6. Mr. WIMER ZAMBRANO supported Mrs. Jiminez Butragueño's proposal. No principle would be violated and the rights of no State party infringed if the Committee stressed that Spain had made a special effort and had submitted

written replies. He thought however that, at a later stage, the Committee might consider the possibility of establishing the practice of written replies to written questions.

7. The CHAIRMAN said that the written replies of Spain were only available in the Spanish language and therefore did not represent formal written replies addressed to all members of the Committee. He proposed that paragraph 1 of the concluding observations should be adopted as amended by Mr. Mratchkov and on the condition that the words "orally and in writing" were added after "their responses".

8. It was so decided.

9. Paragraphs 2 and 3, as amended by Mrs. Bonoan Dandan, were adopted.

10. The CHAIRMAN suggested the following text for the first sentence of paragraph 4: "The Committee considers that, in order to comply with obligations contained in the Covenant, additional measures should be taken with a view to eliminating:".

11. It was so decided.

12. Mr. MRATCHKOV, Rapporteur, replying to a question by the Chairman said that he thought the words "a subsequent stage" at the end of paragraph 5, meant that the answers to the questions put to Spain should be included in its next periodic report.

13. The CHAIRMAN proposed that "a subsequent stage" should therefore be replaced by "in its next periodic report". In addition, he proposed that, in paragraph 5 (b), as introduced by Mrs. Bonoan Dandan, the words "which is apparent in" should be replaced by "within the framework of".

14. Paragraph 5, as amended, was adopted.

15. Paragraph 6 was adopted.

16. The draft concluding observations as a whole (E/C.12/1991/WP.5), as amended, were adopted.

ORGANIZATION OF WORK (agenda item 4) (continued)

17. The CHAIRMAN drew the attention of members to the issues that still had to be settled. 1. It would be desirable for Conference Service to reschedule the date of the meeting of the pre-sessional working group to May, June or July; there should be information to that effect in the Committee's report on its sixth session. 2. The regional groups present in the Committee should each designate their representative in the pre-sessional working group. He suggested that the nomination should take place in private rather than in a public meeting. 3. Members of the Committee should share among themselves the task of drafting the concluding observations on the reports of States to be considered at the next session. Each member should therefore select a State from the list which had been distributed for that purpose. 4. The Committee should appoint "liaison officers" who would be responsible for

following the work of other human rights committees. He therefore invited members who had a special interest in the work of a particular committee to inform him accordingly. 5. Finally, it had become necessary to hold an additional session in order to consider overdue reports and as a preliminary step to address a request to the Economic and Social Council. The Committee could choose one of three approaches. First, the Committee could apply to the Council for authorization to convene a second annual session on the ground that it had fallen well behind schedule in the consideration of reports. Second, it might consider that a single additional session would be sufficient and it would request that such a session be convened as soon as possible in 1992 or 1993, or, third, it might continue at its current rate of one session per year and see whether it was able to consider all the reports.

18. Mrs. IDER proposed that the annual session should be extended by one week in preference to holding two sessions, so as not to increase travel costs. In the current state of United Nations finances the Council would probably not authorize the Committee to hold a second annual session.

19. Mr. SIMMA objected that an extended annual session would raise problems for members who were teachers. A seminar of experts on economic and social indicators had been scheduled for 1992 with the agreement of the Commission on Human Rights and Mr. Danilo Türk had proposed, in his working paper on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1991/WP.3), that it should be held in November 1992 during the week preceding the Committee's session; the total period involved would therefore be four weeks for some members. He personally would not be able to attend a fifth week of a Committee session. The Committee should confine itself for the time being to requesting an additional session in 1993 without a second session as yet becoming the rule. He recalled that there was a precedent for such a request since the Committee had been granted an additional session in 1990.

20. Mr. MUTTERAHEJURU, Mr. MARCHAN ROMERO and Mr. SPARSIS supported Mr. Simma's proposal.

21. The CHAIRMAN reminded Mr. Simma that the date of the seminar on economic and social indicators and their use in assessing the realization of economic, social and cultural rights had not been finalized and that the possibility that the seminar might not be held until 1993 could not be ruled out.

22. Mr. NENEMAN thought that the Committee should show practical sense and flexibility and simply request the Economic and Social Council to envisage an extraordinary session of the Committee to be held in 1992 or 1993 at the latest.

23. The CHAIRMAN proposed, in view of the number of reports which the Committee had not been able to examine for lack of time and the backlog it had accumulated as a result of that situation, that it should request the Economic and Social Council to envisage an additional session for the Committee in 1992 or 1993.

24. It was so decided.

25. Mr. SIMMA said that the Committee on Economic, Social and Cultural Rights was as of now on an equal footing with the other committees responsible for monitoring the implementation of the international instruments relating to human rights. He was therefore surprised that members of the Committee did not receive remuneration in the same way as the experts comprising the other organs.

26. The CHAIRMAN pointed out that provision had been made for remuneration only for experts of three of those committees, namely, the Committee on the Elimination of Discrimination Against Women, the Committée on the Rights of the Child and the Human Rights Committee, pursuant to the instruments establishing those bodies. That did not mean, however, that an initiative designed to extend the prerogative to members of the Committee on Economic, Social and Cultural Rights was doomed to failure.

27. Mr. SIMMA explained that his only concern was to secure complete equality with the other organs responsible for monitoring the implementation of the international instruments relating to human rights. In his opinion, the question of remuneration should be considered at the next meeting of Chairpersons of human rights treaty bodies.

28. The CHAIRMAN said that, if there was no objection, he would propose, on behalf of the Committee, that the question of remuneration for the members of the Committee on Economic, Social and Cultural Rights should be placed on the agenda of the next meeting of Chairpersons of human rights treaty bodies.

29. It was so decided.

The meeting rose at 11.30 a.m.